

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No 345 of 2002

in

COMPANY PETITION No 196 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

INDUBHAI F. SHETH

Versus

O.L.OF ENERJON TECHINCS CO.LTD

Appearance:

1. COMPANY APPLICATION No. 345 of 2002
MR DARSHAN M PARIKH for Petitioner No. 1-5
OFFICIAL LIQUIDATOR for Respondent No. 1
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CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 21/02/2003

ORAL JUDGEMENT

Rule. Service of rule is waived by Shri M.P. Shah, Dy. Official Liquidator. At the request of learned advocate Shri Darashan Parikh as well as the Dy. Official Liquidator, the application is finally heard today.

2. In this application it has been prayed by the applicants that the Official Liquidator be restrained from taking possession or from disturbing possession of the applicants of their offices bearing Nos. B-3 and B-4, Chaitanya, situated on C.G. Road, Ahmedabad.

3. Learned advocate Shri Darashan Parikh appearing for the applicants has submitted that the offices in question were purchased by applicants Nos. 1 to 4 by 4 different sale deeds on 12.4.1999. The offices in question formerly belonged to Kanchenben Manubhai, Nalinbhai Manubhai and Chaitanyabhai Manubhai. It has been submitted that applicants Nos. 1 to 4 are absolute owners of the said offices and applicant No. 5 is a tenant of the said offices.

4. It has been submitted by the learned advocate that the registered office of Enerjon Technics Co. Ltd. (in liqn. and hereinafter referred to as 'the company') was located at the said offices, i.e., B-4, Chaitanya, C.G. Road, Ahmedabad, till 8.1.1988. Thereafter the registered office of the company had been shifted to Plot No. 1723, Gandhinagar-Mansa Highway, Mansa. The said fact has also been recorded in the office of the Registrar of Companies by filing Form 18 by the company.

5. It has been submitted on behalf of the applicants that the Official Liquidator is likely to disturb possession of the said applicants simply because at one point of time the company was having its registered office at B-4, Chaitanya, C.G. Road, Ahmedabad.

6. Applicants Nos. 1 to 4 have adduced sufficient evidence with regard to purchase of the said offices to the Official Liquidator. Deputy Official Liquidator Shri M.P. Shah has submitted that he has gone through the copies of the registered sale deeds, which were produced by the said applicants and upon perusal thereof, he has been satisfied to the effect that the said offices belong to applicants Nos. 1 to 4. It is also not in dispute that with effect from 8.1.1988 the registered office of the company had been shifted to a different place. The winding up order with regard to the company had been

passed on 18.2.2002, i.e., after the date on which the registered office of the company had been shifted from the offices in question.

7. Looking to the above-referred undisputed facts, in my opinion, the Official Liquidator has no right to take possession of the offices in question. The Dy. Official Liquidator has also submitted that he would not like to take possession of the said offices as the company is not having any right or interest in the said offices.

In view of abovestated position, the prayer in terms of para A is granted.

The application is accordingly disposed of. Rule is made absolute with no order as to costs.

(A.R. Dave, J.)

(hn)